

## HOUSE BILL NO. 2187

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Kilgore)

A BILL to amend and reenact § 45.1-361.21 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 45.1-361.21:2 and 45.1-361.21:3, relating to gas or oil wells; disbursement of unclaimed royalties.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 45.1-361.21 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 45.1-361.21:2 and 45.1-361.21:3 as follows:**

**§ 45.1-361.21. Pooling of interests in drilling units.**

A. The Board, upon application from any gas or oil owner, shall enter an order pooling all interests in the drilling unit for the development and operation thereof when:

1. Two or more separately owned tracts are embraced in a drilling unit;
2. There are separately owned interests in all or part of any such drilling unit and those having interests have not agreed to pool their interests; or
3. There are separately owned tracts embraced within the minimum statewide spacing requirements prescribed in § 45.1-361.17.

However, no pooling order shall be entered until the notice and hearing requirements of this article have been satisfied.

B. Subject to any contrary provision contained in a gas or oil lease respecting the property, gas or oil operations incident to the drilling of a well on any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations on each tract in the unit. The portion of production allocated to any tract covered by a pooling order shall be in the same proportion as the acreage of that tract bears to the total acreage of the unit.

C. All pooling orders entered by the Board pursuant to the provisions of this section shall:

1. Authorize the drilling and operation of a well, including the stimulation of all coal seams in the case of a coalbed methane well when authorized pursuant to clause (iii) of subdivision 2 b of subsection F of § 45.1-361.29, subject to the permit provisions contained in Article 3 (§ 45.1-361.27 et seq.) of this chapter;

2. Include the time and date when such order expires;

3. Designate the gas or oil owner who is authorized to drill and operate the well; provided, however, that except in the case of coalbed methane gas wells, the designated operators must have the right to conduct operations or have the written consent of owners with the right to conduct operations on at least 25% of the acreage included in the unit;

4. Prescribe the conditions under which gas or oil owners may become participating operators or exercise their rights of election under subdivision 7 of this subsection;

5. Establish the sharing of all reasonable costs, including a reasonable supervision fee, between participating operators so that each participating operator pays the same percentage of such costs as his acreage bears to the total unit acreage;

6. Require that nonleasing gas or oil owners be provided with reasonable access to unit records submitted to the Director or Inspector;

7. Establish a procedure ~~for~~ by which a gas or oil owner who received notice of the hearing and who does not decide to become a participating operator may elect either to (i) sell or lease his gas or oil ownership to a participating operator, (ii) enter into a voluntary agreement to share in the operation of the well at a rate of payment mutually agreed to by the gas or oil owner and the gas or oil operator authorized to drill the well, or (iii) share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his share equal the following:

a. In the case of a leased tract, 300 percent of the share of such costs allocable to his interest; or

b. In the case of an unleased tract, 200 percent of the share of such costs allocable to his interest.

D. Any gas or oil owner whose identity and location remain unknown at the conclusion of a hearing concerning the establishment of a pooling order for which public notice was given shall be deemed to

54 have elected to lease his interest to the gas or oil operator at a rate to be established by the Board. The  
55 Board shall cause to be established an escrow account into which the unknown lessor's share of proceeds  
56 shall be paid and held for his benefit. Such escrowed proceeds, when they are not subject to conflicting  
57 claims of ownership, shall be deemed to be ~~unclaimed property and shall be disposed of pursuant to the~~  
58 ~~provisions of the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.)~~, abandoned. The  
59 Board shall (i) by August 1, 2019, deposit \$500,000 of such abandoned proceeds in the Coalfield Region  
60 Elderly Assistance Fund established pursuant to § 45.1-361.21:2, and (ii) on an annual basis beginning  
61 August 1, 2019, deposit the remainder of all such abandoned proceeds in the Coalfield Region Tourism  
62 Fund established pursuant to § 45.1-361.21:3. However, the Board shall ensure that the aggregate amount  
63 of all abandoned proceeds still held by it does not fall below \$500,000. Upon discovery of the identity and  
64 location of any unknown owner subject to escrow under the provisions of this subsection and not subject  
65 to conflicting claims of ownership, the designated operator shall, within 30 days, file with the Board a  
66 petition for disbursement of funds to be considered at the next available hearing. The petition shall include  
67 a detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement.

68 E. Any person who does not make an election under the pooling order shall be deemed to have  
69 leased his gas or oil interest to the gas or oil well operator as the pooling order may provide.

70 F. Should a gas or oil owner be a person under a disability, the applicant for a pooling order may  
71 petition the appropriate circuit court to appoint a guardian ad litem pursuant to the provisions of § 8.01-  
72 261 for purposes of making the election provided for by this section.

73 G. Any royalty or overriding royalty reserved in any lease which is deducted from a  
74 nonparticipating operator's share of production shall not be subject to charges for operating costs but shall  
75 be separately calculated and paid to the royalty owner.

76 H. The Board shall resolve all disputes arising among gas or oil operators regarding the amount  
77 and reasonableness of well operation costs. The Board shall, by regulation, establish allowable types of  
78 costs which may be shared in pooled gas or oil operations.

I. A well operator shall have no liability for escrowed funds that are deposited in the Coalfield Region Elderly Assistance Fund or the Coalfield Region Tourism Fund pursuant to the provisions of this section.

**§ 45.1-361.21:2. Coalfield Region Elderly Assistance Fund.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Coalfield Region Elderly Assistance Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, any gifts, donations, grants, bequests, and other funds received on its behalf, and all funds allocated to the Fund pursuant to the provisions of § 45.1-361.21 from certain escrowed gas or oil well proceeds deemed to be abandoned shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. Disbursements from the Fund shall be used solely for the purpose of making grants to private nonprofit organizations for the support of elderly residents of the coalfield region of Virginia as described in § 15.2-6002. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

C. The Board shall establish guidelines, procedures, and objective criteria for the award and distribution of grants from the Fund to eligible nonprofit organizations. Such guidelines, procedures, and criteria shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 45.1-361.21:3. Coalfield Region Tourism Fund.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Coalfield Region Tourism Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, any gifts, donations, grants, bequests, and other funds received on its behalf, and all funds allocated to the Fund pursuant to the provisions of § 45.1-361.21 from certain escrowed gas or oil well proceeds deemed to be abandoned shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain

105 in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end  
106 of each fiscal year shall not revert to the general fund but shall remain in the Fund.

107 B. Disbursements from the Fund shall be used solely for the purpose of funding, in equal amounts,  
108 the Southwest Regional Recreation Authority, established pursuant to Chapter 60.1 (§ 15.2-6016 et seq.)  
109 of Title 15.2, and the Heart of Appalachia Tourism Authority, established pursuant to § 15.2-5500.

110 C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants  
111 issued by the Comptroller upon written request signed by the Director. Each such disbursement shall be  
112 divided equally between the two authorities set forth in subsection B.

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